

**PHARMACY EXAMINING BOARD
MINUTES
MADISON, WI
JUNE 11, 2002**

PRESENT: Susan Sutter, Michael Bettiga, Georgina Forbes, Cynthia Benning, John Bohlman, Dan Luce, Charlotte Rasmussen

STAFF PRESENT: Deanna Zychowski; William Black, Legal Counsel; Division of Enforcement staff for portions of meeting; Roxanne Peterson

CALL TO ORDER

Sue Sutter, Chair, called the meeting to order at 9:07 a.m. A quorum of seven members was present.

The Chair introduced Mark Zwaska who was recently appointed by the Governor to succeed Cynthia Benning upon Senate confirmation.

AGENDA

Additions to the Agenda:

- Presentation of Proposed Stipulations re: to Lance Lundstad and Jeffry Langford
- Correspondence re: Department Telephone System
- Regulatory Digest Discussion
- Request for Variance for Healthcare Pharmacy Land O Lakes
- Correspondence with U.S. Department of Health and Human Services re: Health Insurance Portability and Accountability Act of 1996 (HIPPA)
- FYI – News Release re: NABP Honors Award Recipients at 98th Annual Meeting
- FYI – WSJ Article entitled “FDA Gives Pharmacists Guidelines for Mixing Drugs”
- FYI – Information from U.S. Department of Health and Human Services re: Guidance for FDS Staff and Industry: Compliance Policy Guides Manual Sec. 460.200 Pharmacy Compounding

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the agenda as amended. Motion carried unanimously.

MINUTES OF MAY 14, 2002

Corrections to the minutes:

- Under Practice Questions, motion should read “...two year extension *to meet the CE requirement* for the ...”
- Under Variance Requests, correct the spelling of Bohlman.
- Delete the section entitled “Recognition of NAPLEX – California”.
- Delete the text under “Report of Controlled Substances Board Meeting” and indicate “Nothing to report.”
- Under Requests for Stays of Suspension/Changes in Board Orders, correct the spelling of “Krueger”.

MOTION: Dan Luce moved, seconded by Charlotte Rasmussen, to approve the minutes of May 14, 2002, as amended. Motion carried unanimously.

MINUTES OF MAY 29, 2002

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to approve the minutes of May 29, 2002, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Deputy Secretary Greg Horstman

Deputy Secretary Greg Horstman reported that one of the major goals of the Secretary and Department is to heighten the level of communication with the Boards.

The Deputy Secretary addressed the correspondence the Board received relating to the Department's telephone system. Mr. Horstman advised that he is personally following up on the matter.

Other issues discussed related to the Board Member Workshop on June 25, 2002; the Department survey that was sent to Board members; continuing education issues, the budget, legislation and expansion of the Web services.

Katharine Hildebrand

Ms. Hildebrand distributed the June 2002 Regulatory Digest and reported that the digest has been sent to printing.

PRESENTATION OF PROPOSED STIPULATIONS

Attorney Jim Harris presented proposed stipulations relating to Hayward C. Anderson, R.Ph., Lance J. Lundstad, R.Ph., and Jeffry J. Langford, R.Ph.

SUMMARY REPORT ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

Legal Counsel gave an update of the status of administrative rules.

The Board would like to reopen discussions on central filling and requested that this issue be placed on the next meeting agenda.

ADMINISTRATIVE RULES

Final Approval of Rules Amending Phar 2.06(2) re: the Definition of "Active Practice of Pharmacy"

MOTION: John Bohlman moved, seconded by Cynthia Benning, to table discussion and action on this issue. Roll Call Vote: Charlotte Rasmussen-yes; John Bohlman-yes; Michael Bettiga-no; Dan Luce-no; Cynthia Benning-yes; Georgina Forbes-yes; Susan Sutter-no. Motion carried. 4-yes, 3-no.

Final Adoption of Rules re: the Requirements for Dispensing Prescription Orders for Schedule II Controlled Substances

MOTION: John Bohlman moved, seconded by Cynthia Benning, to adopt the rules as written. Motion carried unanimously.

OXYGEN DISPENSING BY DISTRIBUTORS

The Board discussed William Black's May 28, 2002, memo relating to the dispensing of oxygen and oxygen as a prescription drug. The Board discussed options of how to statutorily deal with the issue, i.e., requesting that the Chair appoint a task force to review the issue with board members and industry people or the possibility of sending out educational letters.

The Board requested that Mr. Black contact the Respiratory Care Practitioners Examining Council for its input and thoughts on how to approach this issue and report back to the Board at its next meeting.

PRACTICE QUESTIONS.

The Board reviewed the practice questions and directed legal counsel to respond.

DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

MOTION: Dan Luce moved, seconded by Michael Bettiga, to approve the following applications. Motion carried unanimously.

Biogen US Corporation, NC
Biogen US Corporation, MA
DeltaPharma, MS
Dixon Shane Drug Company, PA
Guerbert LLC, IN
Inkine Distribution Center, PA
Pfizer, Inc., NJ
Pfizer, Inc., CO
Pfizer, Inc., NV
Pfizer, Inc., PA
Schnuck Pharmacy Retail Support Center, MO

**DISCUSSION OF BOARD DESIGNEE FOR APPROVAL OF PHARMACY,
PHARMACIST, PHARMACY REMODELS, MANUFACTURER AND DISTRIBUTOR
LICENSES**

The Board discussed the current procedure for reviewing and approving the applications. The Board discussed whether or not it was necessary for the routine applications to come before the Board for approval.

MOTION: Dan Luce moved, seconded by John Bohlman, that administrative staff have the authority to review and approve all routine applications for pharmacists, pharmacies, pharmacy remodels, manufacturers and distributors; and, that only the non-routine applications be referred to the Board. Motion carried unanimously.

Susan Sutter requested that the review of application forms be placed on the next meeting agenda. The Board members also requested that they receive a list of the new pharmacies, manufacturers and distributors on a monthly basis.

REVIEW OF DISTRIBUTOR APPLICATION – WYETH PHARMACEUTICALS, KY

MOTION: Dan Luce moved, seconded by Michael Bettiga to approve the distributor application. Motion carried unanimously.

VARIANCE REQUEST – PHILLIPS PHARMACIES (FRIENDSHIP WI)

By consensus, the Board requested that Phillips Pharmacies provide more information to the Board before it can take action on the variance request.

VARIANCE REQUEST – HEALTHCARE PHARMACY (LAND O LAKES WI)

MOTION: Michael Bettiga moved, seconded by Dan Luce, to grant the variance. Motion carried unanimously.

FURTHER DISCUSSION OF NABP CORRESPONDENCE OF APRIL 24, 2002, TO US DEPARTMENT OF HEALTH AND HUMAN SERVICES (HIPPA)

The Board reviewed and revised Bill Black's June 10, 2002, draft letter to Secretary Tommy Thompson, advising that the comments of Carmen Catizone do not reflect the views of the Board. Mr. Black will revise the letter incorporating the Board's revisions.

NABP CONCERNS RE: THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK

Informational item.

NABP "NEW THRESHOLDS FOR RETAIL AND MAIL ORDER SALES OF PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE DRUG PRODUCTS" REVISION

Informational item.

NABP CORRESPONDENCE RE: COMMENTS ON "BUPRENORPHINE INFORMATION FOR PHARMACIES"

Informational item.

The Board requested that an article on methadone use be included in the next Regulatory Digest.

REPORT OF CONTROLLED SUBSTANCES BOARD MEETING

Cynthia Benning reported on the June 5, 2002, Controlled Substances Board meeting.

ADJOURN TO CLOSED SESSION

MOTION: John Bohlman moved, seconded by Michael Bettiga, to allow Mark Zwaska to observe the Closed Session. Motion carried unanimously.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to adjourn to closed session pursuant to Wisconsin State Statutes 19.85(1)(a)(b)(f) and (g), to review applications; deliberate on requests for stay of suspensions, modification of orders, reinstatements of stay of suspensions, proposed stipulations, case closings, and administrative warnings; review exam issues; and, consult with Legal Counsel. Roll Call Vote: Charlotte Rasmussen-yes; John Bohlman-yes; Michael Bettiga-yes; Dan Luce-yes; Cynthia Benning-yes; Georgina Forbes-yes; Susan Sutter-yes. Motion carried unanimously.

Open session recessed at 12:45 p.m.

RECONVENE TO OPEN SESSION

MOTION: Michael Bettiga moved, seconded by John Bohlman, to reconvene the meeting into Open Session at 3:30 p.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

APPLICATION REVIEWS

Randal Smith, R.Ph.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen to accept Randal Smith as a candidate for original licensure and require him to take the PC and MPJE. Motion carried unanimously.

Mark Owens, R.Ph.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to accept Mark Owens as a candidate to take the exams for original license if his internship hours are met; and, that he remain in IPP. Motion carried unanimously.

Douglas Aos, R.Ph.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to accept Douglas Aos as a candidate for original licensure and require him to take the PC and MPJE. Motion carried unanimously.

REQUESTS RELATING TO STAYS OF SUSPENSIONS AND/OR MODIFICATIONS

Andrew Rice, R.Ph.

MOTION: Cynthia Benning moved, seconded by John Bohlman, to grant Andrew Rice's request for reinstatement of the stay of suspension and to modify the Board Order to run until November 9, 2005. Motion carried unanimously. Michael Bettiga abstained. Mr. Bettiga left the room during deliberation on this issue in Closed Session.

Cory Ford, R.Ph.

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to grant Cory Ford a 3-month stay of suspension with modification to increase the pharmacist-in-charge hours from 8 to 16 hours; however, Ford cannot open or close the pharmacy. Motion carried unanimously.

Will Karwoski, R.Ph.

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to grant Will Karwoski a 3-month stay of suspension. Motion carried unanimously.

Ralph Koch, R.Ph.

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to grant Ralph Koch a 3-month stay of suspension. Motion carried unanimously.

James Meyer, R.Ph.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen to grant James Meyer a 3-month stay of suspension; and, that a letter be sent to Mr. Meyer stating that the Order currently allows him to work 40 hours a week. Motion carried unanimously.

Paul Nelson, R.Ph.

MOTION: Michael Bettiga moved, seconded by John Bohlman, to grant Paul Nelson a 3-month stay of suspension but deny his request to increase the pharmacist-in-charge hours. Motion carried unanimously.

Michael O'Kray, R.Ph.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to grant Michael O’Kray a 3-month stay of suspension. Motion carried unanimously.

Kevin Pampuch, R.Ph.

MOTION: John Bohlman moved, seconded by Cynthia Benning, to modify Kevin Pampuch’s Board Order so that for the next 2 months Pampuch be allowed to be the pharmacist-in-charge at night for a trial period; and, that Pampuch and the Director of Pharmacy or Pampuch’s immediate supervising pharmacist must appear before the Board within the next 2 months to discuss the Board’s concerns and the impact of this modification has on his ability to stay in compliance with the Board Order. Motion carried unanimously. Dan Luce abstained.

Thomas Triscari, R.Ph.

MOTION: Michael Bettiga moved, seconded by John Bohlman, to grant Thomas Triscari a 3-month stay of suspension. Motion carried unanimously.

Charlene Willis, R.Ph.

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to grant Charlene Willis’ request for reinstatement of a 3-month stay of suspension. Motion carried unanimously.

**WOMEN’S INTERNATIONAL PHARMACY, INC.
CONSIDERATION FOR REVISION OF AMENDED FINAL DECISION AND ORDER
FOLLOWING REMAND FROM DANE COUNTY CIRCUIT COURT**

MOTION: Dan Luce moved, seconded by Charlotte Rasmussen, to accept the modifications to the Final Decision and Order as proposed by Legal Counsel based on the conclusions rendered by Judge Robert DeChambeau; and, that Dan Luce, on behalf of the Board, review the revised cost calculations. Motion carried unanimously. John Bohlman and Cynthia Benning left the room during discussion in Closed Session and abstained from voting.

STIPULATIONS

Hayward C. Anderson, R.Ph.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter of Hayward C. Anderson. Motion carried unanimously.

Lance J. Lundstad, R.Ph.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter of Lance J. Lundstad. Motion carried unanimously.

Jeffry Langford, R.Ph.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to accept the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter of Jeffry Langford. Motion carried unanimously.

DIVISION OF ENFORCEMENT – CASE STATUS REPORT

There were no cases to review.

EXAMINATION ISSUES

Casey Brown, Office of Examinations, met with the Board to discuss examination issues.

MOTION: John Bohlman moved, seconded by Michael Bettiga, to validate the exam results. Motion carried unanimously.

INFORMATIONAL ISSUES

The Board noted the information items.

ADJOURNMENT

MOTION: Charlotte Rasmussen moved, seconded by Georgina Forbes, to adjourn the meeting. Motion carried unanimously.

Meeting adjourned at 3:35 p.m.